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Via Email

Diego Escanero/Simon Debbage
Ring-fencing consultation
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA
Email: CP19_14@bankofengland.co.uk

Re: CLS Bank International's Response to the Prudential Regulation Authority's Consultation Document, "The implementation of ring-fencing: consultation on legal structure, governance and the continuity of services and facilities"

Dear Messrs. Escanero and Debbage:

CLS Bank International ("CLS") welcomes the opportunity to submit these comments in response to the Prudential Regulation Authority's (the "PRA") consultation document, "The implementation of ring-fencing: consultation on legal structure, governance and the continuity of services and facilities" (the "Consultation Paper"), October 2014.

CLS is a special purpose Edge corporation organized under the laws of the United States and regulated and supervised by the Federal Reserve. CLS is the operator of a payment-versus-payment system established by the private sector to mitigate settlement risk (loss of principal) associated with the settlement of payments relating to foreign exchange transactions (the "CLS System").

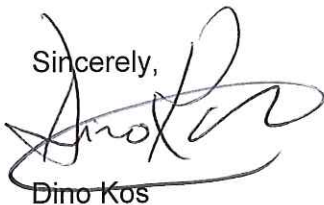
The CLS System was designated in the United Kingdom in 2002 by the Bank of England for the purposes of the EU's Settlement Finality Directive 98/26/EC, as amended, and is designated or recognized for the purposes of comparable finality legislation in many other jurisdictions. In addition, CLS has been designated as a systemically important financial market utility by the United States Financial Stability Oversight Council and has been specified by HM Treasury as a recognized interbank payment system under the Banking Act 2009.

Proposed Technical Amendment to the Appendices

Chapter 4 of the Consultation Paper sets out the PRA's rule-making proposals to help ensure that ring-fenced bodies ("RFBs") have appropriate arrangements in place for the services and facilities they need to provide core services. Chapter 5.17 of the Consultation Paper notes, however, that future guidance will address the participation of RFBs in inter-bank payment systems, and footnote (1) to Chapter 4 indicates that "the provision of services and facilities that an RFB needs to access relevant financial market infrastructure is outside the scope of the proposals in this chapter and may be addressed in a future consultation paper." We propose that similar language be added to the appendices.

It appears that the clear intent set forth in the Consultation Paper is not to address the access of RFBs to financial market infrastructures (each an "FMI"), including the CLS System, at the present time. However, the appendices of the Consultation Paper, as currently drafted, do not reiterate this important point. While at this time the appendices are likely to be read together with the language of Chapters 4 and 5 referenced above, as the appendices evolve going forward, we believe it critical that the supervisory statements and rules contained therein are able to stand on their own, separate and apart from the other language in the Consultation Paper. Currently, on the basis of the proposed text, section 3 of the "Draft supervisory statement on ring-fenced bodies: continuity of services and facilities" (Appendix 2) requires that the provision of services and facilities from other group entities and third parties to an RFB not be capable of being disrupted through the acts, omissions or insolvency of other group members, with no explicit exception for FMIs where such disruption could be necessary to safeguard a system. Similarly, section 8.2 of the "Ring-fenced bodies instrument" (Appendix 4), limiting the rights of other parties to terminate, suspend or materially alter the services or facilities or the agreement or arrangement, has no exception permitting FMIs to take such actions when needed to protect a system. Therefore, in light of the notable differences between FMIs and other financial institutions and the importance of this issue, CLS suggests that clarifying language be added at the beginning of the appendices (either in the text or in a footnote) providing that the appendices do not apply to services and facilities that an RFB needs to access FMIs.

Sincerely,

A handwritten signature in black ink, appearing to read "Dino Kos", written over a horizontal line.

Dino Kos

cc: Alan Marquard, Chief Legal Officer, CLS Group
Lauren Alter-Baumann, Managing Director, Legal and Regulatory Strategic Affairs,
CLS Bank International
Craig Rubin, Director, Assistant General Counsel, CLS Bank International